

POST-DECREE TEMPORARY MODIFICATION ORDERS WITHOUT NOTICE

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**TO GET TEMPORARY MODIFICATION OF CUSTODY
OR PARENTING TIME WITHOUT ADVANCE NOTICE
TO THE OTHER PARTY**

**Part 1: Completing and Filing the Court Papers
Forms and Instructions**

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SELF-SERVICE CENTER

POST-DECREE

TEMPORARY ORDERS WITHOUT NOTICE

FOR MODIFICATION OF CHILD CUSTODY OR PARENTING TIME

COMPLETING AND FILING THE COURT PAPERS

Notice: You must complete and file papers for a “regular” modification with notice before the Court can consider a petition for modification without Notice.

This packet contains court forms and instructions for filing a request for temporary modification of court orders for custody and/or parenting time without advance notice to the other party. The documents should appear in the following order:

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SELF-SERVICE CENTER
POST-DECREE
MOTION FOR TEMPORARY MODIFICATION ORDERS
WITHOUT NOTICE
CHECKLIST

You may use these forms if . . .

You must complete and file papers for a “regular” modification with notice before the Court can consider a motion for a modification without Notice.

- ✓ You have already filed, or at the same time you file these papers you will be filing, a “regular” request for modification of custody and/or parenting time, **AND**
- ✓ Someone is about to cause serious, immediate bodily harm to another person, or the health, safety, and welfare of a person is otherwise in serious and immediate jeopardy, **AND**
- ✓ You can give very specific facts about:
 - what the emergency is,
 - why the judge should hear your case before everyone else who has been waiting to see a judge,
 - why the situation is so serious that the Court should take someone’s child(ren) away without providing:
 - ♦ advance notice explaining why, or
 - ♦ opportunity for the person to defend his or her rights to the child(ren), and

NOTE: If it turns out that what you said is not true or filed without good legal reason, the judge may find you in contempt of court, order payment to the court or to the other party for costs or damages resulting from the wrongful filing of this Motion, or impose other sanctions.

WARNING. If your *“Motion for Temporary Modification Orders Without Notice”* is turned down at one Superior Court location, you may not use these forms to re-file your request at another location.

READ ME: Before filing documents with the Court, consult **a lawyer** to help guard against undesired and unexpected consequences. The Self-Service Center has a list of lawyers who can give you legal advice and who can help you on a task-by-task basis for a fee, and a list of court-approved mediators as well. You may view the lists at the Self-Service Centers or from our web site at: <http://www.superiorcourt.maricopa.gov/ssc/provider/lawyers.asp>

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INSTRUCTIONS: HOW TO FILL OUT THE FORMS FOR A POST-DECREE “TEMPORARY MODIFICATION ORDER WITHOUT NOTICE”

WRITE NEATLY. USE BLACK INK.

STEP 1: Complete the “Motion for Temporary Modification Order without Notice”.

- A.** Fill in the information about you in the top left corner. Fill in the information in the case caption. This includes the name of the Petitioner, the Name of the Respondent, and the Case Number. The name of the Petitioner should be the same as the Name of the Petitioner in the Order you are trying to modify.
- B.** Check the box to indicate whether you are asking for a temporary modification without notice concerning custody and/or parenting time (“visitation”). If you are asking for anything other than custody and/or parenting time, check the box for “Other”, and write in your request.
- C.** Then write in your name to show that you are the person asking for the “**Temporary Modification Order Without Notice**”.
- D. REASONS WHY I NEED THIS ORDER.** Write in the reasons why you need this order. Explain the reasons in detail and be very specific. Use additional paper if necessary. Explain the emergency facts which now exist, what injury you fear could occur, why you need this Order immediately, and why a temporary modification order without notice to the other party is the only way to solve the problem. If you have questions about whether you should request a temporary modification order without notice, see a lawyer for help.
- E. PEOPLE INVOLVED.** Write in the name of the mother, father, other people, children and the children’s ages.
- F. MOTION FOR TEMPORARY MODIFICATION ORDERS *without* NOTICE.** You cannot file this “**Motion for Temporary Modification Orders Without Notice**” unless you have filed or you *are* filing a “regular” request for modification of the same orders **WITH NOTICE**. Write in the date you filed or will be filing the motion **with notice**.
- G. INFORMATION ABOUT OTHER EMERGENCY CASES INVOLVING THE PARTIES OR THE CHILDREN.** Check the boxes that apply and then write in the information requested.
- H. OTHER COURT CASES INVOLVING EITHER OR BOTH PARTIES.** Describe all other court cases that involve either or both of the parties, whether pending or not, including criminal cases. Complete all the information for each court order. Use extra paper if necessary.

I. ANY OTHER GOVERNMENT AGENCY INVOLVEMENT WITH EITHER OR BOTH THE PARTIES, OR CHILDREN. State whether there have been or are any complaints with or investigations by any government agency, including Child Protective Services, involving the parties or the child(ren). If so, explain the agency, date, type of case, and status of case right now.

J. CRIMES OF EITHER PARTY: Explain here if either parent or people involved with this Motion have been charged with committing a dangerous crime including child molestation or domestic violence.

K. REQUESTS TO THE COURT

1. Check the boxes that apply to request modification of custody and/or parenting time. Write in any other emergency orders that you think you need.
2. Then sign the document in front of a deputy clerk of court or a notary public. The clerk or notary public will also date and sign the document.

STEP 2: Complete *only* the top portion of the **“TEMPORARY MODIFICATION ORDER WITHOUT NOTICE”**: Fill in the information in the case caption. This includes the name of the Petitioner, the Name of the Respondent, and the Case Number. The name of the Petitioner should be the same as the Name of the Petitioner in the Order you are trying to modify. The **“Temporary Modification Order Without Notice”** is the document the Judge will sign if he or she agrees that an order must be issued right away, without giving any advance notice to the other party. **THIS IS VERY RARE.**

STEP 3: WHEN YOU HAVE COMPLETED BOTH the **“Motion”** and **“Order”**, follow the instructions in the **“Procedures”** page, the last document in this packet (DRMCE11p).

A NOTE ABOUT NOTICE

The court always prefers that you give advance notice, unless you have a very good reason not to, such as fear of death or bodily harm to yourself or someone else.

The forms in this packet are to request a change in court orders **WITHOUT NOTICE**, which means you are asking the Court to issue an order taking away someone’s children without giving them advance notice or the opportunity to defend against or deny the accusations that caused the Court to issue the order.

This is a very serious matter. The Judge will not grant the **“Temporary Modification Order Without Notice”** unless you have a very good reason that immediate and irreparable injury, loss, damage or death will result if you give notice to the other party.

Person Filing: _____
 Address: _____
 City, State, Zip Code: _____
 Daytime/Evening Telephone: _____ / _____
 ATLAS Number (if applicable): _____
 Attorney Bar Number (if applicable): _____
 Representing ☐ Self, Without a Lawyer or
 Attorney for ☐ Petitioner or ☐ Respondent

SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

Case Number: _____

Name of Petitioner

Name of Respondent

MOTION FOR POST-DECREE TEMPORARY ORDER WITHOUT NOTICE FOR MODIFICATION OF

☐ CHILD CUSTODY

☐ PARENTING TIME

☐ Other: _____

I MAKE THE FOLLOWING STATEMENTS TO THE COURT UNDER OATH OR BY AFFIRMATION:

1. MY NAME IS: _____
(Name of Person asking for Emergency Order)

2. **REASONS WHY I NEED THIS ORDER.** Explain in detail the emergency facts which now exist, what injury you fear could occur, why you need this Order immediately, and why a Temporary Order Without Notice is the only way to solve the problem: (Use additional paper if necessary):

☐ Check here if continued on attached page(s).

3. **PEOPLE INVOLVED.** This Motion concerns the following people:

Name of Mother: _____

Name of Father: _____

Name of Other Person: _____

Name of Other Person: _____

Name(s) of Children: _____

Case No. _____

4. **I FILED OR I AM GOING TO FILE a “regular” petition for modification of custody and/or parenting time in the Superior Court of Arizona in Maricopa County**, I have attached a copy of that petition to the Judge’s copy and to the other party’s copy of this Motion.

That request was filed or is going to be filed on this month/day/year: _____

5. **INFORMATION ABOUT OTHER EMERGENCY CASES INVOLVING THE SAME PARTIES OR CHILDREN:** Check the boxes that apply and write in the information requested.

- ☐ **Current emergency cases:** To the best of my knowledge, there are no pending proceedings for emergency orders about these children in any other court. (If this is *not* a true statement, this Court may not be able to enter an Order and you may want to consult a lawyer for advice.)
- ☐ **Past emergency cases:** Either or both parties have filed for emergency court orders in the past. (If so, complete the following information. Use additional paper if necessary.)

Names of Parties: _____

Date of Order, Judgment, Dismissal, etc.: _____ Case No. _____

Location of court (City and state): _____

Explain Type of Case: (Juvenile, Criminal, Order of Protection, etc.) _____

Explain what order or judgment said, or basis for dismissal: _____

6. **ALL OTHER COURT CASES INVOLVING EITHER OR BOTH OF THE PARTIES:**
Describe all other court cases that involve either or both of the parties, whether pending or not, including criminal cases. Complete all the information for each court order (use extra paper if necessary).

Names of Parties: _____

Date of Order, Judgment, Dismissal, etc.: _____ Case No. _____

Location of court (City and state): _____

Explain Type of Case: (Juvenile, Criminal, Order of Protection, etc.) _____

Explain what order or judgment said, or basis for dismissal: _____

Status of Case Now: _____

☐ Final Order Entered; Case is Over. Date Order/Judgment signed: _____

☐ Hearing Date Set On (date): _____ at (time): _____

Case No. _____

Court Location/address: _____

☐

Other (explain in detail): _____

☐

Check here if continued on attached page(s).

7. ANY OTHER GOVERNMENT AGENCY INVOLVEMENT WITH EITHER OR BOTH THESE PARTIES, OR THESE CHILDREN:

State whether there have been or are any complaints with or investigations by any government agency, including Child Protective Services, involving the parties or the child(ren). If so, explain the agency, date, type of case, and status of case.

8. CRIMES OF EITHER PARTY: Explain here if either parent or people involved with this Petition have been charged with committing a **dangerous crime** including child molestation or domestic violence:

I MAKE THE FOLLOWING REQUESTS TO THE COURT:

1. For a “Temporary Modification Order Without Notice” as follows: Check the boxes that apply:

☐

Awarding me Temporary Custody of the child(ren) until a full court hearing.

☐

Canceling parenting time (formerly “visitation”) for the other party until a full court hearing.

☐

Changing the parenting time schedule until a full court hearing, as follows: _____

☐

Other (explain): _____

2. For a court hearing where the parties can testify about the facts related to this **“Motion for a Temporary Modification Order Without Notice”** and the **“Petition for Modification of Custody and/or Parenting Time,”** so that the Judge can decide whether to continue or modify the terms of any emergency (without notice) Order.

Case No. _____

3. For any other order that is in the best interests of the minor children named above.

OATH OR AFFIRMATION AND VERIFICATION

I swear or affirm that the information on this document is true and correct under penalty of perjury.

Signature

Date

Sworn to or Affirmed before me this: _____ By _____
(date)

My Commission Expires: _____
Deputy Clerk or Notary Public

SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

Name of Petitioner

Case Number: _____

POST-DECREE TEMPORARY ORDER WITHOUT NOTICE FOR MODIFICATION OF

☐ **CHILD CUSTODY**

☐ **PARENTING TIME** (formerly "visitation")

☐ **OTHER:** _____

Name of Respondent

**THIS IS AN IMPORTANT COURT ORDER THAT AFFECTS YOUR RIGHTS. READ CAREFULLY.
IF YOU DO NOT UNDERSTAND THIS ORDER, CONTACT AN ATTORNEY FOR LEGAL ADVICE.**

THE COURT FINDS:

1. INFORMATION ABOUT UNDERLYING PETITION.

A petition for modification of custody and/or parenting time was filed on this date:

_____ by _____

2. EMERGENCY SITUATION. The court has found that an emergency exists and this order must be entered immediately to avoid irreparable harm because:

- ☐ Someone is about to cause serious bodily harm to another person immediately, OR
- ☐ The health, safety, and welfare of a person is otherwise in serious and immediate jeopardy as follows (describe):

3. BEST INTEREST OF THE CHILDREN. This order is made in the best interest of the children whose names and dates of birth (month/day/year) are listed below:

Name _____	Date of Birth _____
Name _____	Date of Birth _____
Name _____	Date of Birth _____
Name _____	Date of Birth _____
Name _____	Date of Birth _____

THE COURT ORDERS:

1. ☐ **TEMPORARY MODIFICATION OF CHILD CUSTODY WITHOUT NOTICE IS**
☐ **DENIED** ☐ **GRANTED, AND CUSTODY IS TEMPORARILY MODIFIED**
AS FOLLOWS: _____

- ☐ **THIS ORDER SHALL CONTINUE until this date:** _____ unless
extended by the court, or by agreement between the parties in writing and filed with this court.

2. ☐ **TEMPORARY MODIFICATION OF PARENTING TIME WITHOUT NOTICE IS**
☐ **DENIED** ☐ **GRANTED, AND PARENTING TIME IS TEMPORARILY**
MODIFIED AS FOLLOWS: _____

- ☐ **THIS ORDER SHALL CONTINUE until this date:** _____ unless
extended by the court, or by agreement between the parties in writing and filed with this court.

3. ☐ **OTHER TEMPORARY ORDERS WITHOUT NOTICE:** _____

- ☐ **THIS ORDER SHALL CONTINUE until this date:** _____ unless
extended by the court, or by agreement between the parties in writing and filed with this court.

4. ☐ **SERVICE AND NOTICE TO THE OTHER PARTY:**

The person who requested this Order shall provide the other party with a copy of the Motion and Order.

5. ☐ **BOND** in the amount of \$ _____ shall be posted with the Clerk of the Court no
later than this date: _____ and this time: _____ as security for the
payment of costs and damages that may be incurred or suffered by any party as a result of this
Order should it be determined the basis of this Order was false or without merit. Bond shall be
posted by: (Name(s)) _____

_____.

DONE IN OPEN COURT: _____
(Date) **JUDGE/COMMISSIONER**

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PROCEDURES: WHAT TO DO AFTER COMPLETING ALL FORMS

(TO REQUEST POST-DECREE TEMPORARY ORDERS WITHOUT NOTICE FOR
MODIFICATION OF CHILD CUSTODY AND/OR PARENTING TIME)

STEP 1: Complete the *“Motion for Temporary Order Without Notice”*.

STEP 2: **Make copies of all the paperwork.** Make 3 copies of *“Motion”* and *“Order”* forms. Assemble the copies so that you have 4 SETS of PAPERS: One set of originals and 3 sets of the copies.

STEP 3: **File the papers at the court.** Take the **original and 3 sets of copies to the Clerk of the Court filing counter.**

WHAT THE CLERK WILL DO: The Clerk will file the original of the *“Motion for Temporary Order Without Notice”*. The Clerk will give you back clerk-stamped copies of the documents to show the documents were filed. The Clerk will then direct you to Family Court Administration or to the Judge who will hear your case.

STEP 4: **What the Judge will do:** The Judge will look over the *“Motion for Temporary Order Without Notice”*. The Judge may sign the *“Temporary Order Without Notice”*, deny your motion, OR schedule a court hearing.

STEP 5: **Serve the court papers.** If the Judge issues the Temporary Modification Order without notice and/or schedules a hearing, you must provide the other party with a copy of the Motion and Order.

STEP 6: **The court hearing:** If the Judge schedules a hearing, be sure to write down the date, time and place of the court hearing, and come to the hearing. Be prepared to present your evidence about why the Judge should sign your Order.

DO NOT BRING CHILDREN TO COURT.